

Montana Water Court
P. O. Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
Fax: (406) 522-4131
watercourt@mt.gov

**IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
LITTLE MISSOURI RIVER BASIN ABOVE LITTLE BEAVER CREEK – BASIN 39F
PRELIMINARY DECREE**

* * * * *

CLAIMANT: 3XT Ranch Inc.

CASE 39F-0402-R-2022

OBJECTOR: USA (Dept. of Interior Bureau of Land Mgmt.)

39F 45938-00

39F 175755-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above-stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

FINDINGS OF FACT

1. 3XT Ranch Inc. is the record owner of claims 39F 45938-00 and 39F 175755-00.

2. Claims 39F 175755-00 was decreed with DNRC issue remarks:

THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. PART OF THE PLACE OF USE APPEARS TO BE ON BUREAU OF LAND MANAGEMENT.

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

MEANS OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

3. The United States of America (Bureau of Land Management) objected to claims 39F 45938-00 and 39F 175755-00.

4. The parties filed a Stipulation on December 14, 2022, a copy is attached. The Stipulation resolved the Objections to both claims and addressed the ownership issue remark decreed on claim 39F 175755-00. Pursuant to the Stipulation, the following modifications should be made to claim 39F 45938-00:

*Maximum Acres:		696.00	326.00					
*Place of Use:								
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	124.00		NE	24	6S	61E	CARTER	
2	40.00	180.00	NESW	SW	24	6S	61E CARTER	
3	40.00		NWSE	24	6S	61E	CARTER	
4	40.00	77.00	SENW	S2NW	24	6S	61E CARTER	
5	77.00	272.00	E2NE	E2	30	6S	62E CARTER	
6	116.00	43.00	SE	NENE	30	6S	62E CARTER	
	13.00		NENE	31	6S	62E	CARTER	

Pursuant to the Stipulation, the following modifications should be made to claim 39F 175755-00:

*Place of Use:								
ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	28.00	45.00	SES	S2S2	19	6S	62E	CARTER
	17.00			S2SE	19	6S	62E	CARTER

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court is required to address all issue remarks that appear on a claim as well as any objections the claim receives. Sections 85-2-233, 85-2-247, and 85-2-248, MCA.
2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be

overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.

3. The period of diversion and means of diversion issue remarks decreed on claim 39E 175755-00 are notice-type issue remarks. As the Objections to claim 39E 175755-00 have been resolved, no further proceedings are required.

RECOMMENDATIONS

1. Claims 39F 45938-00 and 39F 175755-00 should be modified as shown in Finding of Fact No. 4, resolving the Objections.

2. The issue remarks should be removed from claim 39E 175755-00.

Post Decree Abstracts of Water Right Claims are served with the Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

3XT Ranch Inc
513 Main St.
Miles City, MT 59301

Service via Electronic Mail

Mark Widerschein,
NRS-ENRD US DOJ
PO Box 7611
Washington, DC 20044-7611
202-532-5803
Mark.Widerschein@Usdoj.Gov
Montanabasins.ENRD@USDOJ.GOV

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 45938-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: 3XT RANCH INC
2160 LITTLE MISSOURI RD
CAMP CROOK, SD 57724

Priority Date: JUNE 22, 1901

Type of Historical Right: FILED

Purpose (use): IRRIGATION
Irrigation Type: WATER SPREADING

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.

Volume: 800.00 AC-FT
Climatic Area: 2 - MODERATELY HIGH

***Maximum Acres:** 326.00

Source Name: UNNAMED TRIBUTARY OF LITTLE MISSOURI RIVER
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWSW	24	6S	61E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DIKE

Period of Use: JANUARY 1 TO DECEMBER 31

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	40.00		NESW	24	6S	61E	CARTER
2	40.00		NWSE	24	6S	61E	CARTER
3	40.00		SENW	24	6S	61E	CARTER
4	77.00		E2NE	30	6S	62E	CARTER
5	116.00		SE	30	6S	62E	CARTER
6	13.00		NENE	31	6S	62E	CARTER
Total:	326.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

45938-00 45940-00 45941-00 45942-00

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F

Water Right Number: 39F 175755-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: 3XT RANCH INC
2160 LITTLE MISSOURI RD
CAMP CROOK, SD 57724

Priority Date: NOVEMBER 15, 1904

Type of Historical Right: FILED

Purpose (use): IRRIGATION
Irrigation Type: WATER SPREADING

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.

***Volume:** 94.50 AC-FT
Climatic Area: 2 - MODERATELY HIGH

***Maximum Acres:** 45.00

Source Name: UNNAMED TRIBUTARY OF LITTLE MISSOURI RIVER
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSESW	19	6S	62E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DIKE

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSESW	19	6S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	28.00		SESW	19	6S	62E	CARTER
2	17.00		S2SE	19	6S	62E	CARTER
Total:	45.00						

Remarks:

THE PLACE OF USE OF THIS RIGHT WAS ALSO CLAIMED BY THE CLAIMANT OF FILE NO. 39F 45942-00. THE WATER COURT DECREES THIS RIGHT AND MAKES BOTH CLAIMS A MATTER OF RECORD.

TODD KIM, Assistant Attorney General
Environment & Natural Resources Division

JESSE LASLOVICH, United States Attorney
District of Montana

MARK J. WIDERSCHIEIN, Trial Attorney
United States Department of Justice
Environment & Natural Resources Division
Natural Resources Section
P.O. Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 532-5803 (Widerschein)

ATTORNEYS FOR UNITED STATES OF AMERICA,
Bureau of Land Management

ELECTRONICALLY FILED

39F-0402-R-2022

December 14, 2022

Montana Water Court

**IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
LITTLE MISSOURI RIVER BASIN ABOVE LITTLE BEAVER CREEK – BASIN 39F
PRELIMINARY DECREE**

* * * * *

CLAIMANT: 3XT Ranch Inc.

OBJECTOR: USA (Dept. of Interior Bureau of Land Mgmt.)

CASE 39F-0402-R-2022
39F 45938-00
39F 175755-00

STIPULATION TO RESOLVE OBJECTIONS

This Stipulation, entered into by the United States of America, Bureau of Land Management (the “United States”), and Claimant 3XT Ranch Inc. (“Claimant”), is for the purpose of resolving the United States’ objections to Water Right Claim Nos. 39F 45938-00 and 39F 175755-00.

RECITALS

A. Pursuant to Mont. Code Ann. § 85-2-221, Claimant, or a predecessor-in-interest to Claimant, timely filed Statements of Claim for claims 39F 45938-00 and 39F 175755-00 with the Department of Natural Resources and Conservation.

B. Pursuant to Mont. Code Ann. § 85-2-233, the United States timely filed Notices of Objection to claims 39F 45938-00 and 39F 175755-00 as they appeared on the Preliminary Decree for Basin 39F.

C. Claim 39F 45938-00 asserts a filed right on Unnamed Tributary of Little Missouri River for irrigation of Claimant's place of use over a maximum acres of 686.0 acres. As described on the Preliminary Decree for Basin 39F, the legal land descriptions for the place of use are overbroad and inaccurately include federal land. Clarification of the legal land description will more accurately reflect the water right as it existed prior to July 1, 1973.

D. Claim 39F 175755-00 asserts a filed right on Unnamed Tributary of Little Missouri River for irrigation of Claimant's place of use. As described on the Preliminary Decree for Basin 39F, the legal land descriptions for the place of use are overbroad and inaccurately include federal land. Clarification of the legal land description will more accurately reflect the water right as it existed prior to July 1, 1973.

E. In the interest of resolving this case without the need for further litigation, Claimant and the United States stipulate to the modifications below.

STIPULATION

1. The maximum acres for claim 39F 45938-00 should be amended to **326.00** acres.
2. The place of use for claim 39F 45938-00 should be amended as follows:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	124.00		NE	24	6S	61E	CARTER
<u>1</u> 2	<u>40.00</u> 160.00		<u>NESW</u> SW	24	6S	61E	CARTER
<u>2</u> 3	40.00		NWSE	24	6S	61E	CARTER
<u>3</u> 4	<u>40.00</u> 77.00		<u>SENW</u> S2NW	24	6S	61E	CARTER
<u>4</u> 5	<u>77.00</u> 272.00		<u>E2NE</u> E2	30	6S	62E	CARTER
<u>5</u> 6	<u>116.00</u>		<u>SE</u>	<u>30</u>	<u>6S</u>	<u>62E</u>	<u>CARTER</u>
<u>6</u> 7	13.00		NENE	31	6S	62E	CARTER
Total:	<u>326.00</u> 686.00						

3. The place of use for claim 39F 175755-00 should be amended as follows:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	<u>28.00</u> 45.00		<u>SESW</u> S2S2	19	6S	62E	CARTER
<u>2</u>	<u>17.00</u>		<u>S2SE</u>	<u>19</u>	<u>6S</u>	<u>62E</u>	<u>CARTER</u>
Total:	45.00						

4. The proposed maps, attached as Exhibits 1 and 3, and abstracts, attached as Exhibits 2 and 4 to this Stipulation, accurately reflect the modifications stipulated above.

5. Upon entry of a ruling and final order in this case reflecting the amendments specified above for claims 39F 45938-00 and 39F 175755-00, the United States' objections to claims 39F 45938-00 and 39F 175755-00 shall be deemed resolved, provided that such order(s) do not expand or change other substantive elements of the claim.

6. This Stipulation is the compromise of disputed water claims and is not to be construed as an admission against the interests of any party.

7. The terms of this Stipulation are binding on the parties, their successors, and assignees. Nothing in this Stipulation shall create any right, claim, cause of action, objection, defense, or other remedy in any person not a party to the Stipulation.

8. Each party will bear its own costs and attorney fees arising from the negotiation and execution of the Stipulation and in proceedings before the Montana Water Court regarding this case.

9. Each undersigned party entered into and executed this Stipulation voluntarily, in good faith, and without any fraud, misunderstanding, misrepresentation, overreaching, duress, or undue influence, whatsoever.

10. The parties hereto represent and affirm that the signatories to this Stipulation are legally authorized to bind the party to this matter.

11. This Stipulation may be executed by the parties in counterparts, each of which when executed and filed with the Montana Water Court shall be an original, but all of which together shall constitute one instrument.

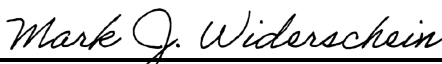
12. This document (§§ 1-12) embodies the entire Stipulation of the parties.

IT IS SO STIPULATED on the date last entered below:

TODD KIM, Assistant Attorney General
Environment & Natural Resources Division

JESSE LASLOVICH, United States Attorney
District of Montana

Dated: December 14, 2022


MARK J. WIDERSCHIN, Trial Attorney
mark.widerschein@usdoj.gov | (202) 532-5803
United States Department of Justice
Environment & Natural Resources Division
Natural Resources Section
P.O. Box 7611
Washington, D.C. 20044-7611
Electronic Service: MontanaBasins.ENRD@usdoj.gov

ATTORNEYS FOR UNITED STATES OF AMERICA,
Bureau of Land Management

Dated: 12-6-2022, 2022

Tawny Tetrault

3XT Ranch Inc.

513 Main St.

Miles City, MT 59301

ATTACHMENT 1



Water Right Number:
39F 45938 00NULL

Print Map

Legend

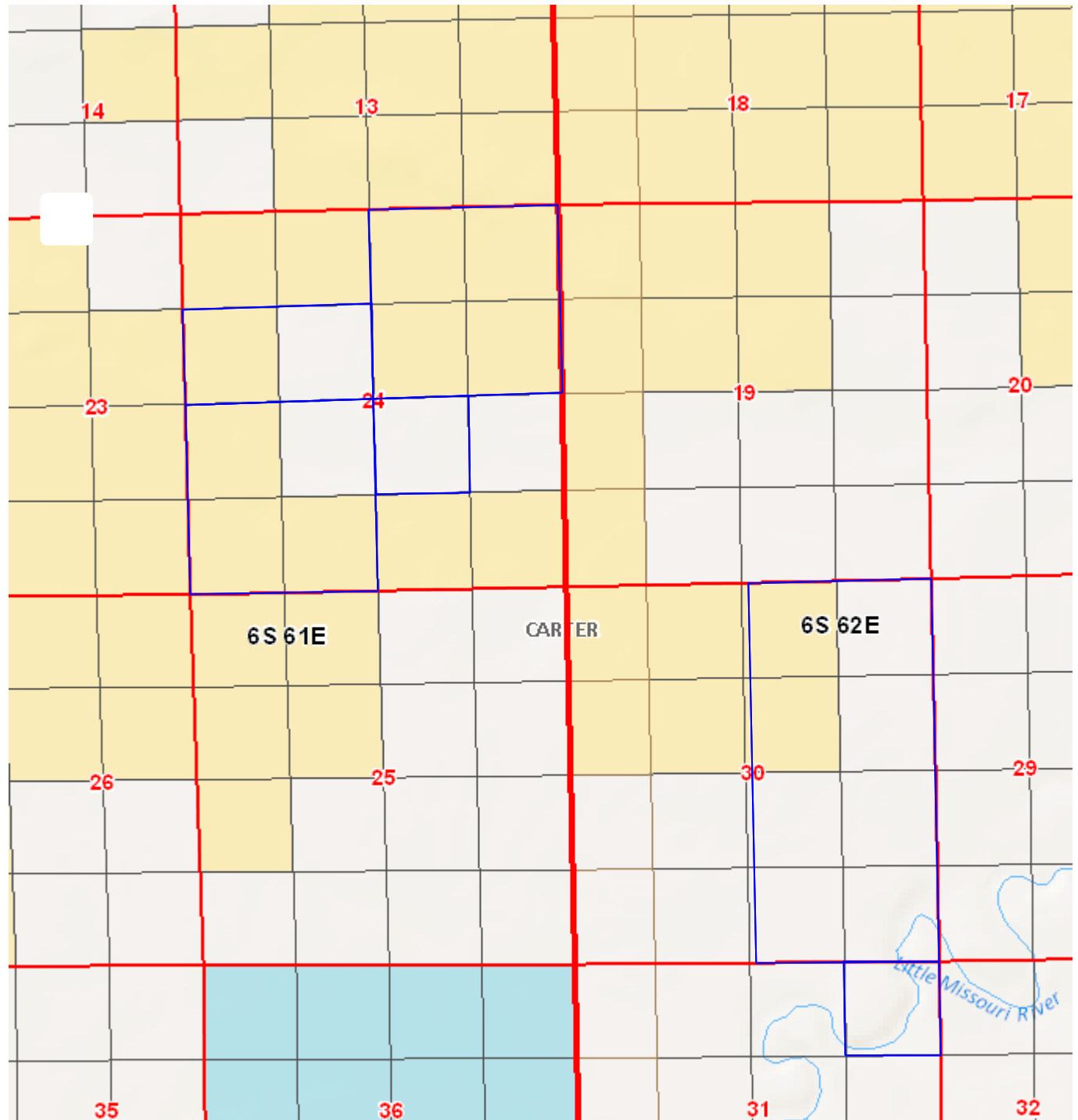
- ☒ Diversion Count:
 - Surface water diversion.
 - Ground water diversion.
- ☐ Adjacent Diversions
 - Surface water diversion.
 - Ground water diversion.
- ☒ Place of Use Legal Land Descriptions
 - ☐ Adjacent POUs
 - ☐ Cadastral ?
 - ☒ PLSS Detail ?

Note:

Contact DNRC if you have any questions or if the mapped information appears incorrect.

The points of diversion (PODs) and places of use (POUs) are derived from water right legal land descriptions. PODs are placed at the center of their legal land description, not at their true geographic location. POUs are drawn as polygons of the entire legal land description.

Reference TOPO Map NHD Map Air Photo View Legend



ATTACHMENT 2

**PRELIMINARY DECREE
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F
ABSTRACT OF WATER RIGHT CLAIM**

IMPORTANT NOTICE

YOUR WATER RIGHT AS SHOWN ON THIS ABSTRACT MAY HAVE CHANGES FROM YOUR WATER RIGHT AS CLAIMED OR AMENDED. AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY THE MONTANA WATER COURT AFTER ISSUANCE OF THE TEMPORARY PRELIMINARY DECREE OR BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) DURING THE PREPARATION OF THIS PRELIMINARY DECREE. THESE CHANGES ARE AUTHORIZED BY THE MONTANA SUPREME COURT WATER RIGHT CLAIMS EXAMINATION RULES OR BY ORDER OF THE WATER COURT.

OBJECTIONS MAY BE FILED ACCORDING TO THE PROCEDURES OUTLINED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

Water Right Number: 39F 45938-00 STATEMENT OF CLAIM

Version: 2 -- REEXAMINED

Status: ACTIVE

Owners: 3XT RANCH INC
PO BOX 116
SAINT ONGE, SD 57779

Priority Date: JUNE 22, 1901

Type of Historical Right: FILED

Purpose(use): IRRIGATION

Irrigation Type: WATER SPREADING

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.

Volume: 800.00 AC-FT

Climatic Area: 2 - MODERATELY HIGH

***Maximum Acres:** ~~686.00~~ 326.00

Source Name: UNNAMED TRIBUTARY OF LITTLE MISSOURI RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWSW	24	6S	61E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DIKE

Period of Use: JANUARY 1 TO DECEMBER 31

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	124.00		NE	24	6S	61E	CARTER
2	160.00 40.00	NESW	SW	24	6S	61E	CARTER
3	40.00		NWSE	24	6S	61E	CARTER
4	77.00 40.00	SENW	S2NW	24	6S	61E	CARTER
5	272.00 77.00	E2NE	E2	30	6S	62E	CARTER
6	116.00		SE	30	6S	62E	CARTER
7 6	13.00		NENE	31	6S	62E	CARTER

Total: ~~686.00~~ 326.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

45938-00 45940-00 45941-00 45942-00

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THE DNRC EXAMINATION OF THIS CLAIM FOUND NO SIGNIFICANT FACTS, DATA, OR ISSUES TO REPORT TO THE WATER COURT.

A BETTER UNDERSTANDING OF YOUR CLAIMED WATER RIGHT CAN BE OBTAINED BY COMPARING YOUR RIGHT WITH OTHER CLAIMS IN THE BASIN. FOR EXAMPLE, COMPARE PRIORITY DATES, FLOW RATES, VOLUMES, OR ACRES IRRIGATED. ALSO, YOUR WATER RIGHT MAY BE SUBJECT TO WATER RIGHTS IN ADJOINING SUBBASINS OR BASINS AS WELL AS BEING SUBJECT TO OTHER RIGHTS ON YOUR SOURCE OF SUPPLY. FINALLY, YOUR WATER RIGHT MAY BE SUBJECT TO INDIAN RESERVED AND FEDERAL RESERVED WATER RIGHTS.

COMPLETE DETAILS REGARDING THE DNRC PREPARATION OF THIS PRELIMINARY DECREE AND RELATED MATERIALS CAN BE REVIEWED AT THE OFFICE LOCATIONS IDENTIFIED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER EXPLANATION OF YOUR CLAIMED WATER RIGHT. THESE FINDINGS CAN BE FOUND AS INDICATED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY." IF YOU NEED OBJECTION FORMS, OR HAVE QUESTIONS ABOUT WATER COURT PROCEDURES OR CHANGES TO YOUR RIGHT, YOU CAN CONTACT THE WATER COURT BY CALLING 1-800-624-3270 (WITHIN MONTANA ONLY) OR 1-406-586-4364, OR BY WRITING TO P.O. BOX 1389, BOZEMAN, MT 59771-1389.

ATTACHMENT 3



Water Right Number:
39F 175755 00NULL

[Print Map](#)

Legend

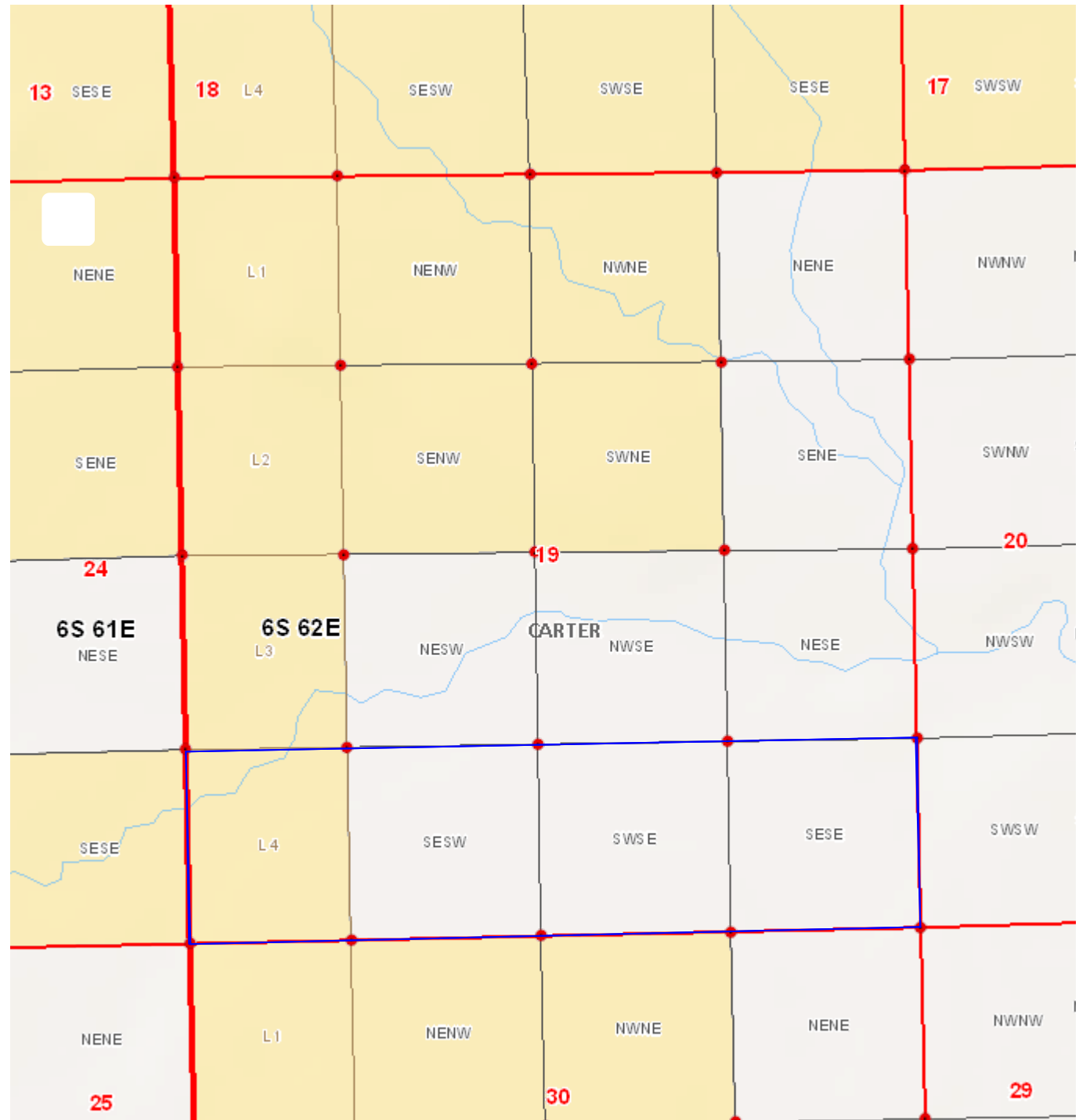
- ☒ Diversion Count:
 - Surface water diversion.
 - Ground water diversion.
- ☐ Adjacent Diversions
 - Surface water diversion.
 - Ground water diversion.
- ☒ Place of Use Legal Land Descriptions
 - ☐ Adjacent POUs
 - ☐ Cadastral ?
 - ☒ PLSS Detail ?

Note:

Contact DNRC if you have any questions or if the mapped information appears incorrect.

The points of diversion (PODs) and places of use (POUs) are derived from water right legal land descriptions. PODs are placed at the center of their legal land description, not at their true geographic location. POUs are drawn as polygons of the entire legal land description.

[Reference](#) [TOPO Map](#) [NHD Map](#) [Air Photo](#) [View Legend](#)



ATTACHMENT 4

**PRELIMINARY DECREE
LITTLE MISSOURI RIVER, ABOVE LITTLE BEAVER CREEK
BASIN 39F
ABSTRACT OF WATER RIGHT CLAIM**

IMPORTANT NOTICE

YOUR WATER RIGHT AS SHOWN ON THIS ABSTRACT MAY HAVE CHANGES FROM YOUR WATER RIGHT AS CLAIMED OR AMENDED. AN ASTERISK (*) HAS BEEN PLACED NEXT TO EACH ITEM CHANGED BY THE MONTANA WATER COURT AFTER ISSUANCE OF THE TEMPORARY PRELIMINARY DECREE OR BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (DNRC) DURING THE PREPARATION OF THIS PRELIMINARY DECREE. THESE CHANGES ARE AUTHORIZED BY THE MONTANA SUPREME COURT WATER RIGHT CLAIMS EXAMINATION RULES OR BY ORDER OF THE WATER COURT.

OBJECTIONS MAY BE FILED ACCORDING TO THE PROCEDURES OUTLINED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

Water Right Number: 39F 175755-00 STATEMENT OF CLAIM

Version: 2 -- REEXAMINED

Status: ACTIVE

Owners: 3XT RANCH INC
PO BOX 116
SAINT ONGE, SD 57779

Priority Date: NOVEMBER 15, 1904

Type of Historical Right: FILED

Purpose(use): IRRIGATION

Irrigation Type: WATER SPREADING

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.

***Volume:** 94.50 AC-FT

Climatic Area: 2 - MODERATELY HIGH

***Maximum Acres:** 45.00

Source Name: UNNAMED TRIBUTARY OF LITTLE MISSOURI RIVER

Source Type: SURFACE WATER

***Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSESW	19	6S	62E	CARTER

***Period of Diversion:** JANUARY 1 TO DECEMBER 31

Diversion Means: DIKE

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWSESW	19	6S	62E	CARTER

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

*Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	45.00	28.00	SESW	S2S2	19	6S	62E	CARTER
2		17.00	S2SE	19	6S	62E	CARTER	
Total:	45.00							

Remarks:

THE PLACE OF USE OF THIS RIGHT WAS ALSO CLAIMED BY THE CLAIMANT OF FILE NO. 39F 45942-00. THE WATER COURT DECREES THIS RIGHT AND MAKES BOTH CLAIMS A MATTER OF RECORD.

THE FOLLOWING ISSUES WERE IDENTIFIED BY THE DNRC DURING ITS EXAMINATION OF THIS WATER RIGHT CLAIM.

THE OWNERSHIP OF THIS RIGHT MAY BE QUESTIONABLE. PART OF THE PLACE OF USE APPEARS TO BE ON BUREAU OF LAND MANAGEMENT.

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.

MEANS OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

A BETTER UNDERSTANDING OF YOUR CLAIMED WATER RIGHT CAN BE OBTAINED BY COMPARING YOUR RIGHT WITH OTHER CLAIMS IN THE BASIN. FOR EXAMPLE, COMPARE PRIORITY DATES, FLOW RATES, VOLUMES, OR ACRES IRRIGATED. ALSO, YOUR WATER RIGHT MAY BE SUBJECT TO WATER RIGHTS IN ADJOINING SUBBASINS OR BASINS AS WELL AS BEING SUBJECT TO OTHER RIGHTS ON YOUR SOURCE OF SUPPLY. FINALLY, YOUR WATER RIGHT MAY BE SUBJECT TO INDIAN RESERVED AND FEDERAL RESERVED WATER RIGHTS.

COMPLETE DETAILS REGARDING THE DNRC PREPARATION OF THIS PRELIMINARY DECREE AND RELATED MATERIALS CAN BE REVIEWED AT THE OFFICE LOCATIONS IDENTIFIED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY."

SEE GENERAL FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR FURTHER EXPLANATION OF YOUR CLAIMED WATER RIGHT. THESE FINDINGS CAN BE FOUND AS INDICATED IN THE DOCUMENT ENTITLED "NOTICE OF ENTRY OF PRELIMINARY DECREE AND NOTICE OF AVAILABILITY." IF YOU NEED OBJECTION FORMS, OR HAVE QUESTIONS ABOUT WATER COURT PROCEDURES OR CHANGES TO YOUR RIGHT, YOU CAN CONTACT THE WATER COURT BY CALLING 1-800-624-3270 (WITHIN MONTANA ONLY) OR 1-406-586-4364, OR BY WRITING TO P.O. BOX 1389, BOZEMAN, MT 59771-1389.

CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2022, I sent a true and correct copy of the foregoing document to the following parties:

Service via USPS Mail:

3XT Ranch Inc.
513 Main St.
Miles City, MT 59301
Tawny_petrault49@hotmail.com

/s/ Melissa Saale
Melissa Saale, Law Clerk